IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL NO. 345 OF 1999
In
SPECIAL CIVIL APPLICATION NO. 4897 OF 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

MAKARPURA KAMDAR KARMACHARI UNION - Appellant(s)
Versus
STATE OF GUJARAT & ANR. – Respondent (s)

==========

Appearance :
MR. NILESH M. SHAH for Appellant.
MR. MAYANK DESAI for Appellant.
MS. PAURAMI SHETH, AGP for Respondent No(s).: 1.
MR. PARITOSH CALLA, for Respondent No(s).: 2.

==========

CORAM : HONOURABLE MR.JUSTICE R.S.GARG
and
HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 08/08/2005

ORAL JUDGMENT
(Per : HONOURABLE MR.JUSTICE R.S.GARG)

1. Present is an appeal by a dissatisfied Union, which is fighting for the cause of the workmen of M/s.FAG Precision Bearings Limited. It appears that finding difficult to run the industry, the Management floated a Voluntary Retirement Scheme. The matter was negotiated between the workers' Union and the Management and after the scheme was approved, the workmen opted for the same. In accordance with the terms of the scheme, every workman was paid his dues. It appears that after the money was received by the workmen, the present appellant, namely, Makarpura Kamdar Karmachari Union, made an application to the State Government for making a reference. The application, however, was rejected on 18th July, 1995. Being aggrieved by the said order, the appellant-Union came to this Court in Special Civil Application No. 8902 of 1995. The said Writ Application was finally disposed of by the Order dated 10th July, 1996 and the State Government was required to reconsider the matter. By Order dated 23rd October, 1996, the competent/appropriate Government refused to make the reference with an observation that since after acceptance of the retirement scheme, no dispute would survive.

Being aggrieved by the Order dated 23rd October, 1996, the appellant-Union again filed Special Civil Application No.4897

of 1997. The said Writ Application was rejected, therefore, the Union is before us.

2. Learned Counsel for the appellant contended that the appropriate Government was unjustified in refusing to make the reference because it did not appreciate that the dispute was still surviving and the appellant was making a submission that the Voluntary Retirement Scheme was bad and certain signatures were obtained by inducing the workmen. His submission is that in view of the settled legal principles, the State Government should not have refused to make the reference.

3. Learned AGP for the State supported the order. Respondent No.2 is represented by the learned Counsel, Mr.Paritosh Calla. It is submitted by the respondents that the order passed by the learned single Judge calls for no interference because once the benefits flowing from the Voluntary Retirement Scheme are accepted by the workmen, then, no dispute would survive for its decision.

4. It is not in dispute before us that as many as 350 persons had accepted the Voluntary Retirement Scheme; each and every workman had received the money under the Scheme. It is also not in dispute before us that it is only after receiving the money, wisdom dawned upon the Union and they started raising

the dispute that the Voluntary Retirement Scheme was not beneficial to the workmen and inducement was made. We are at a loss to understand and appreciate that why 350 workmen, who are otherwise also members of the Union, did not object to the Voluntary Retirement Scheme, firstly when it was floated, secondly when it was negotiated and thirdly when it was opted for by the workmen. It appears that the Union now is raising the dispute so that they may use pressure tactics and may obtain something more. In fact, each and every workman has been paid in accordance with his entitlement under the Scheme. The State Government was absolutely justified in observing that no reference was required to be made because the Voluntary Retirement Scheme was accepted by the other side. The learned single Judge was also justified in holding that there was no case for any interference. We find no reason to interfere. The appeal is dismissed. No costs.

[***R.S.Garg, J.***]

[***Ravi R.Tripathi, J.***]

*kamlesh**